

May 18, 1999

TRIBUTE TO LESTER AND LOIS
WHITING

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1999

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a distinguished couple in my community.

Lester and Lois Whiting lived, worked, and raised their family in the Tichnor community and resided there all their days. They were both descendants of pioneer families in south Arkansas County. They were the kind of people that always cared about their neighbors and community, were always ready to do their part for the common good.

The Whitings were the kind of people that only wanted a fair chance. They took care of their own business and achieved success in doing this.

They brought honor and distinction to their family and community with their quiet service and support. They are of the "Greatest Generation" that worked hard, played by the rules, and made this country what it is today.

If as some say, your children are the true measure of your success, then the Whitings are indeed successful.

I have been privileged to have lived among wonderful people like the Whitings all of my life.

The world is a better place because they lived. I have been blessed to have had such friends.

THE MULTIDISTRICT TRIAL
JURISDICTION ACT OF 1999

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1999

Mr. SENSENBRENNER. Mr. Speaker, today I am introducing the Multidistrict Trial Jurisdiction Act of 1999 at the behest of the Administrative Office of the U.S. Courts (or "AO").

The AO is concerned over a Supreme Court opinion, the so-called Lexecon case, pertaining to Section 1407 of Title 28 of the U.S. Code. This statute governs Federal multidistrict litigation.

Under Section 1407, a Multidistrict Litigation Panel—a select group of seven Federal judges picked by the Chief Justice—helps to consolidate lawsuits which share common questions of fact filed in more than one judicial district nationwide. Typically, these suits involve mass torts—a plane crash, for example—in which the plaintiffs are from many different states. All things considered, the panel attempts to identify the one district court nationwide which is best adept at adjudicating pretrial matters. The panel then remands individual cases back to the districts where they were originally filed for trial unless they have been previously terminated.

For approximately 30 years, however, the district court selected by the panel to hear pretrial matters (the "transferee court") often invoked Section 1404(a) of Title 28 to retain ju-

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risdiction for trial over all of the suits. This is a general venue statute that allows a district court to transfer a civil action to any other district or division where it may have been brought; in effect, the court selected by the panel simply transferred all of the cases to itself. According to the AO, this process has worked well, since the transferee court was versed in the facts and law of the consolidated litigation. This is also the one court which could compel all parties to settle when appropriate.

The Lexecon decision alters the Section 1407 landscape. This was a 1998 defamation case brought by a consulting entity (Lexecon) against a law firm that had represented a plaintiff class in the Lincoln Savings and Loan litigation in Arizona. Lexecon had been joined as a defendant to the class action, which the Multidistrict Litigation Panel transferred to the District of Arizona. Before the pretrial proceedings were concluded, Lexecon reached a "resolution" with the plaintiffs, and the claims against the consulting entity were dismissed.

Lexecon then brought a defamation suit against the law firm in the Northern District for Illinois. The law firm moved under Section 1407 that the Multidistrict Litigation Panel empower the Arizona court which adjudicated the original S&L litigation to preside over the defamation suit. The panel agreed, and the Arizona transferee court subsequently invoked its jurisdiction pursuant to Section 1404 to preside over a trial that the law firm eventually won. Lexecon appealed, but the Ninth Circuit affirmed the lower court decision.

The Supreme Court reversed, however, holding that Section 1407 explicitly requires a transferee court to remand all cases for trial back to the respective jurisdictions from which they were originally referred. In his opinion, Justice Souter observed that "the floor of Congress" was the proper venue to determine whether the practice of self-assignment under these conditions should continue.

Mr. Speaker, this legislation responds to Justice Souter's admonition. My bill would simply amend Section 1407 by explicitly allowing a transferee court to retain jurisdiction over referred cases for trial, or refer them to other districts, as it sees fit. This change makes sense in light of past judicial practice under the Multidistrict Litigation statute. It obviously promotes judicial administrative efficiency. I therefore urge my colleagues to support the Multidistrict Trial Jurisdiction Act of 1999.

TRIBUTE TO THE U.S. MERCHANT
MARINES

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1999

Mr. DOYLE. Mr. Speaker, I rise today to give tribute to U.S. Merchant Marines and extend my gratitude for their valiant service to our country during World War II. As my colleagues should be aware, May 22nd is National Maritime Day.

In years past, I have come before the House to explain in detail how the thousands of courageous men and women who served in

the Merchant Marines transported supplies to our soldiers during war and in the face of grave danger. Undeniably, the actions taken and responsibilities fulfilled by these men and women who served in the Merchant Marines contributed to the outcome of World War II. As the Pittsburgh areas was one of the most heavily recruited regions of the country by the Merchant Marines, I have come to have an enormous appreciation for and ever growing amount of respect for the contributions that merchant mariners have made to our nation.

Indeed, their efforts should not be diminished in any way and should be equated with those of other armed service personnel. It is important to note that during World War II, Merchant Marines were subject to government control and their vessels were controlled by the government under the Authority of the War Shipping Administration. And just as with other branches of the military, Merchant Marines traveled under sealed orders and were subject to the Code of Military Justice. Like many Members of Congress, I felt it was completely unacceptable that Merchant Marines were discriminated against in terms of benefits and lent my strong support to H.R. 1126, the Merchant Marine Fairness Act. The bill, H.R. 1126, was ultimately enacted into law as part of H.R. 4110, the Veterans Programs Enhancement Act.

While I am pleased that the Merchant Marine Fairness Act has been signed into law, I was not pleased that the language of an important provision has been altered. Specifically, the Merchant Marine Fairness Act included directive language according the recognition of Honorable Discharge to merchant mariners whose service included time between August 15, 1945 to the end of 1946. The language however, was changed to read "Certificate of Honorable Discharge" when the original bill was included in H.R. 4110, and was enacted as part of Public Law 105-368.

As it has been more than half a century since the end of World War II and almost 20 years since the struggle for equitable recognition of merchant mariners began, I am deeply concerned about the potential for the intent of the original language to be misconstrued and thus creating further delay in the delivery of earned benefits. I urge both Secretary of Defense Cohen and Secretary of Transportation Slater to expeditiously and consistently implement the new benefits provisions in accordance to the intent of the original bill's language. Approximately 2,500 mariners and their families are expecting and should receive no less.

I also want to recognize the efforts of one of my constituents, Mark Gleeson, for this personal involvement in, and steadfast commitment to obtaining appropriate recognition for the efforts of Merchant Marines during World War II. Mark cares very deeply about this matter and played a major role in creating greater awareness about the inequitable treatment of Merchant Marines within the halls of Congress.

In closing, I want to thank all of my colleagues who were supportive of the effort embodied in the Merchant Marines Fairness Act and encourage them to monitor its implementation. It is my hope that each and every

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